

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

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ESTATE OF ROGER D. :  
OWENSBY JR., et al., :  
 :  
Plaintiffs, :  
vs. : Case No. 01-CV-769  
 : (Judge S. A. Spiegel)  
CITY OF CINCINNATI, :  
et al., :  
 :  
Defendants. :  
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Videotaped deposition of THOMAS HENRY  
STREICHER JR., a witness herein, called by the  
plaintiffs for cross-examination, pursuant to the  
Federal Rules of Civil Procedure, taken before me,  
Wendy Davies Welsh, a Registered Diplomate Reporter  
and Notary Public in and for the State of Ohio, at  
the offices of Helmer, Martins & Morgan Co. LPA,  
1900 Fourth & Walnut Centre, 105 East Fourth Street,  
Cincinnati, Ohio, on Monday, December 22, 2003, at  
9:06 a.m.

**THOMAS HENRY STREICHER, JR.**

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<p>1 APPEARANCES:</p> <p>2 On behalf of the Plaintiffs:</p> <p>3 Frederick M. Morgan Jr., Esq.  4 Paul B. Martins, Esq.  5 Don Stiens, Esq.  6 Helmer, Martins &amp; Morgan Co. LPA  7 Suite 1900, Fourth &amp; Walnut Centre  8 105 East Fourth Street  9 Cincinnati, Ohio 45202  10 Phone: (513) 421-2400</p> <p>11 John J. Helbling, Esq.  12 The Helbling Law Firm, L.L.C.  13 3672 Springdale Road  14 Cincinnati, Ohio 45251  15 Phone: (513) 923-9740</p> <p>16 Mark T. Tillar, Esq.  17 224 Clark Road  18 Cincinnati, Ohio 45215</p> <p>19 On behalf of the Defendants City of Golf Manor,  20 Stephen Tilley, Roby Heiland and Chris  21 Campbell:</p> <p>22 Wilson G. Weisenfelder Jr., Esq.  23 Rendigs, Fry, Kiely &amp; Dennis  24 900 Fourth &amp; Vine Tower  25 One West Fourth Street  26 Cincinnati, Ohio 45202-3688  27 Phone: (513) 381-9200</p>	<p>1 S T I P U L A T I O N S</p> <p>2 It is stipulated by and among counsel for the</p> <p>3 respective parties that the deposition of THOMAS</p> <p>4 HENRY STREICHER JR., a witness herein, called by the</p> <p>5 plaintiffs for cross-examination, pursuant to the</p> <p>6 Federal Rules of Civil Procedure, may be taken at</p> <p>7 this time by the notary; that said deposition may be</p> <p>8 reduced to writing in stenotype by the notary, whose</p> <p>9 notes may then be transcribed out of the presence of</p> <p>10 the witness; and that proof of the official</p> <p>11 character and qualifications of the notary is</p> <p>12 expressly waived.</p> <p>13 - - -</p>
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<p>1 APPEARANCES (Continued)</p> <p>2 On behalf of Defendants City of Cincinnati,  3 Darren Sellers, Jason Hodge:</p> <p>4 Geri Hernandez Geller, Esq.  5 Assistant City Solicitor  6 Department of Law  7 Room 214, City Hall  8 901 Plum Street  9 Cincinnati, Ohio 45202  10 Phone: (513) 352-3346</p> <p>11 Neil F. Freund, Esq.  12 Freund, Freeze &amp; Arnold  13 One Dayton Centre  14 1 South Main Street, Suite  15 1800 Dayton, Ohio 45402  16 Phone: (937) 222-2424</p> <p>17 On behalf of the Defendants Robert B. Jorg,  18 Patrick Caton, Jason Hodge, Victor Spellan and  19 Darren Sellers:</p> <p>20 Donald E. Hardin, Esq.  21 Hardin, Lefton, Lazarus &amp; Marks, LLC  22 915 Cincinnati Club Building  23 30 Garfield Place  24 Cincinnati, Ohio 45202  25 Phone: (513) 721-7300</p> <p>26 Also present:</p> <p>27 Richard W. Grubb, Videographer</p> <p>28 Lisa Damstrom, Law Clerk  29 Helmer, Martins &amp; Morgan Co., L.P.A.</p> <p>30 Mr. Roger Owensby</p> <p>31 Mr. Shawn Owensby</p> <p>32 - - -</p>	<p>1 I N D E X</p> <p>2 Examination by: Page</p> <p>3 Mr. Morgan . . . . . 354</p> <p>4 Mr. Weisenfelder . . . . . 334, 356</p> <p>5 - - -</p> <p>6 E X H I B I T S</p> <p>7 Plaintiff Exhibit 117 . . . . . Page</p> <p>8 Plaintiff Exhibit 118 . . . . . 156</p> <p>9 Plaintiff Exhibit 119 . . . . . 169</p> <p>10 Plaintiff Exhibit 120 . . . . . 176</p> <p>11 Plaintiff Exhibit 121 . . . . . 187</p> <p>12 Plaintiff Exhibit 122 . . . . . 226</p> <p>13 Plaintiff Exhibit 123 . . . . . 252</p> <p>14 Plaintiff Exhibit 124 . . . . . 256</p> <p>15 Plaintiff Exhibit 125 . . . . . 258</p> <p>16 Plaintiff Exhibit 126 . . . . . 262</p> <p>17 Plaintiff Exhibit 127 . . . . . 264</p> <p>18 Plaintiff Exhibit 128 . . . . . 268</p> <p>19 Plaintiff Exhibit 129 . . . . . 279</p> <p>20 Plaintiff Exhibit 130 . . . . . 291</p> <p>21 Plaintiff Exhibit 131 . . . . . 309</p> <p>22 - - -</p>

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<p style="text-align: right;">Page 346</p> <p>1 relinquished to the Cincinnati -- first Cincinnati 2 officer on the scene, is that -- 3 MR. HARDIN: Objection. 4 MR. MORGAN: Object to the form. 5 A. I'm -- I'm not with you. 6 Q. Okay. 7 A. You're losing me here. 8 Q. Well, okay. Well, let's back up. 9 MR. FREUND: Isn't -- isn't that a -- a 10 legal question? 11 MR. WEISENFELDER: Well, it's a policy. 12 And whether or not they followed the policy 13 involves -- 14 MR. FREUND: I'll let you ask it, but I 15 think it's a -- 16 MR. WEISENFELDER: Well, it may be. 17 MR. HARDIN: It's legal -- 18 MR. WEISENFELDER: Well -- 19 MR. HARDIN: -- and I'll be objecting. 20 MR. MORGAN: How come you're so much nicer 21 to him than you were to me? 22 MR. FREUND: Because -- 23 MS. GEILER: Don't answer that, Neil. 24 MR. FREUND: Because I want to be.</p>	<p style="text-align: right;">Page 348</p> <p>1 effect as of November 7th, 2000? 2 A. I don't see this dated anyplace, but I 3 guess we can assume that it was. 4 Q. Well, I don't want anybody to assume 5 anything. 6 A. Okay. 7 Q. There's a date on the transmittal page to 8 you from Sergeant Jeffrey Butler dated October 30th 9 of 2000. 10 A. Okay. 11 Q. Okay. And that transmittal memo lists the 12 participating agencies within Hamilton County, 13 correct? 14 A. Correct. 15 MR. MORGAN: Object to the form. 16 Q. Okay. And Cincinnati is -- well, is 17 Cincinnati part of that agreement? 18 A. Yes. 19 Q. Okay. As is Golf Manor? 20 A. Yes. 21 Q. Okay. Well, let's go back to page 2 then. 22 A. Okay. 23 Q. All right. "Control of any arrested 24 person, evidence and the crime scene shall be</p>
<p style="text-align: right;">Page 347</p> <p>1 MR. HARDIN: I'll -- I'll object to the 2 reference that this is a policy. 3 MR. FREUND: Yeah. I -- I just think that 4 you're asking him a -- a legal question. 5 MR. WEISENFELDER: Well, if he's -- 6 MR. FREUND: And -- and not a factual 7 question. 8 MR. WEISENFELDER: That's fine. Okay. 9 MR. FREUND: So that's the basis for my -- 10 MR. WEISENFELDER: All right. Well, let 11 me -- 12 MR. FREUND: -- objection. 13 MR. WEISENFELDER: Let me go back and 14 make -- 15 MR. FREUND: And I -- and -- and that's 16 the last time I'm going to be nice to you also. 17 MR. WEISENFELDER: Okay. That's fair 18 enough. 19 MR. FREUND: All right. 20 MR. WEISENFELDER: All right. 21 BY MR. WEISENFELDER 22 Q. Chief Streicher, what was marked as 23 Exhibit 78, the Mutual Aid Agreement For Law 24 Enforcement, that was an agreement that was in</p>	<p style="text-align: right;">Page 349</p> <p>1 relinquished to the first available officer from the 2 jurisdiction within which the crime took place." 3 What's your understanding of that sentence? 4 A. That if an officer -- 5 MR. MORGAN: Asked and answered. 6 THE WITNESS: I'm sorry. 7 MR. FREUND: Go ahead. 8 A. If an officer is on duty and has probable 9 cause to believe that a criminal offense occurred 10 outside of their own jurisdiction but in the 11 jurisdiction of one of these cooperating agencies, 12 that officer can make an arrest -- 13 Q. And -- 14 A. -- for that situation and do whatever's 15 necessary according -- according to the law. 16 Q. And what -- 17 A. And then when a -- 18 Q. Wait -- 19 A. -- respondent -- 20 Q. I'm -- 21 A. -- if -- if -- if the -- if the -- when an 22 officer from the jurisdiction where that offense 23 occurred arrived there, that that person should 24 relinquish custody and control of that person to the</p>

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<p style="text-align: right;">Page 350</p> <p>1 officer in the jurisdiction where it occurred.</p> <p>2 Q. Whose own -- whose jurisdiction where the</p> <p>3 offense occurred, correct?</p> <p>4 A. Right. Exactly.</p> <p>5 Q. Okay. Let's turn to page 7.</p> <p>6 A. Okay.</p> <p>7 Q. Paragraph VI C. Do you want to take a</p> <p>8 minute to read it?</p> <p>9 A. C? Sure.</p> <p>10 Q. Pardon me. No. I'm sorry, VI D.</p> <p>11 A. What is it?</p> <p>12 Q. VI D on the bottom of page 7.</p> <p>13 A. Oh, okay. D, okay.</p> <p>14 Q. Okay. Have you had an opportunity to read</p> <p>15 that?</p> <p>16 A. Yes, sir.</p> <p>17 Q. For the record, VI D of the -- what was</p> <p>18 marked as Exhibit 78 states, "Whenever the law</p> <p>19 enforcement employees of one cooperating Agency are</p> <p>20 providing police services upon request to another</p> <p>21 cooperating Agency they will be under the lawful</p> <p>22 direction and authority of the commanding law</p> <p>23 enforcement officer of the Agency to which they are</p> <p>24 rendering assistance."</p>	<p style="text-align: right;">Page 352</p> <p>1 Q. And why not?</p> <p>2 A. Because I don't know that any supervisor</p> <p>3 from -- or any commanding officer from Cincinnati</p> <p>4 gave them any direction.</p> <p>5 Q. But it does-- it doesn't say they have to,</p> <p>6 does it?</p> <p>7 MR. HARDIN: Object.</p> <p>8 Q. Doesn't it say they shall be?</p> <p>9 MR. HARDIN: Objection. Argumentative.</p> <p>10 MR. MORGAN: Join.</p> <p>11 A. "They will be under the lawful direction</p> <p>12 and authority." I don't know that any direction was</p> <p>13 given to them.</p> <p>14 Q. Okay. So you're not aware of any</p> <p>15 Cincinnati officer, in fact, directing them or</p> <p>16 asking them to do anything as it relates to Mr.</p> <p>17 Owensby?</p> <p>18 A. I don't recall anything at all --</p> <p>19 Q. Okay.</p> <p>20 A. -- about -- along that.</p> <p>21 Q. Are you aware of anyone from Cincinnati --</p> <p>22 when I say Cincinnati, I mean the Cincinnati Police</p> <p>23 Department.</p> <p>24 A. Okay.</p>
<p style="text-align: right;">Page 351</p> <p>1 Chief, would you agree with me that in</p> <p>2 this instance, the Owensby matter, that when the</p> <p>3 Golf Manor officers responded to the Cincinnati</p> <p>4 jurisdiction they were under the control or</p> <p>5 direction of the Cincinnati officers?</p> <p>6 MR. HARDIN: Objection.</p> <p>7 MR. MORGAN: Foundation, conclusion of</p> <p>8 law, speculation.</p> <p>9 A. Umm --</p> <p>10 Q. Based upon this agreement.</p> <p>11 MR. MORGAN: Same objections.</p> <p>12 A. I guess I have to ask you in what matters?</p> <p>13 I mean, I don't understand what you mean by --</p> <p>14 Q. Well, I -- I -- I didn't write the</p> <p>15 agreement. I'm asking based upon what you know of</p> <p>16 the incident involving Mr. Owensby, knowing how the</p> <p>17 Golf off-- Golf Manor officers responded to the</p> <p>18 scene as well as what's contained in paragraph VI D,</p> <p>19 whether, in your opinion, the Golf Manor -- Golf</p> <p>20 Manor officers were under the control or direction</p> <p>21 of Cincinnati?</p> <p>22 MR. HARDIN: Objection.</p> <p>23 MR. MORGAN: Same objections.</p> <p>24 A. No.</p>	<p style="text-align: right;">Page 353</p> <p>1 Q. Asking either of the Golf Manor officers</p> <p>2 to do something that was not done?</p> <p>3 MR. MORGAN: Foundation.</p> <p>4 A. I don't recall that --</p> <p>5 Q. Okay.</p> <p>6 A. -- no, sir.</p> <p>7 Q. You're not aware of anything?</p> <p>8 A. I -- I --</p> <p>9 Q. Correct?</p> <p>10 A. -- simply don't recall.</p> <p>11 Q. Okay. Are you aware of any of the</p> <p>12 Cincinnati officers requesting either Golf Manor</p> <p>13 officer to summon or request the fire department or</p> <p>14 any other type of medical assistance for Mr.</p> <p>15 Owensby?</p> <p>16 MR. MORGAN: Foundation.</p> <p>17 A. I don't recall that.</p> <p>18 Q. Okay. Chief Streicher, would you agree</p> <p>19 that the officers who participated in subduing</p> <p>20 the -- or the physical arrest of Mr. Owensby or the</p> <p>21 Macing of Mr. Owensby or placing Mr. Owensby in the</p> <p>22 back of a Golf Manor police cruiser were in a better</p> <p>23 position than the Golf Manor officers to assess Mr.</p> <p>24 Owensby's physical condition or need for medical</p>

<p style="text-align: right;">Page 354</p> <p>1 care?</p> <p>2 MR. FREUND: Objection.</p> <p>3 MR. HARDIN: Objection.</p> <p>4 MR. MORGAN: Foundation, speculation.</p> <p>5 A. I don't know that that's accurate.</p> <p>6 Q. Okay.</p> <p>7 A. I -- I -- wouldn't -- certainly wouldn't</p> <p>8 agree that that's accurate.</p> <p>9 Q. The fact of the matter is, as you sit here</p> <p>10 today, you're not certain or don't have specific</p> <p>11 facts as to what either of the Golf Manor officers</p> <p>12 saw or ability to see as it related to Mr. Owensby's</p> <p>13 condition; is that true?</p> <p>14 A. That's correct.</p> <p>15 MR. MORGAN: Leading.</p> <p>16 Q. Okay.</p> <p>17 MR. WEISENFELDER: I have nothing further.</p> <p>18 MR. FREUND: Are you -- are you going to</p> <p>19 have any further questions?</p> <p>20 MR. MORGAN: I may have one. I need to</p> <p>21 parse this just a second. Yeah, I think one.</p> <p>22 FURTHER CROSS-EXAMINATION</p> <p>23 BY MR. MORGAN:</p> <p>24 Q. Chief, when -- talking about paragraph D</p>	<p style="text-align: right;">Page 356</p> <p>1 that -- that tries to allow some flexibility because</p> <p>2 of the large number of incidents that can occur</p> <p>3 where we cross jurisdictional lines.</p> <p>4 Q. Do me a favor, Chief. Read aloud the last</p> <p>5 two lines of paragraph D which are actually on the</p> <p>6 next page. That sentence.</p> <p>7 A. "Officers shall be subject to the code of</p> <p>8 ethics, policies, and rules and regulations of their</p> <p>9 employing Agency at all times."</p> <p>10 MR. MORGAN: I have nothing further.</p> <p>11 Thank you, Chief.</p> <p>12 THE WITNESS: Okay.</p> <p>13 MR. WEISENFELDER: Chief, I have one more.</p> <p>14 THE WITNESS: Okay.</p> <p>15 FURTHER CROSS-EXAMINATION</p> <p>16 BY MR. WEISENFELDER:</p> <p>17 Q. Do you know who drafted the --</p> <p>18 MR. WEISENFELDER: Well, I -- you know, I</p> <p>19 misspoke. I have more than one question. And</p> <p>20 Neil's going to get upset, aren't you, Neil?</p> <p>21 MR. FREUND: No. No. I don't -- I don't</p> <p>22 easily get upset.</p> <p>23 MR. WEISENFELDER: Good.</p> <p>24 BY MR. WEISENFELDER:</p>
<p style="text-align: right;">Page 355</p> <p>1 on page 7 of the compact, when you said -- it's my</p> <p>2 understanding that the reason you discounted</p> <p>3 reliance on this paragraph was because you weren't</p> <p>4 aware of there having been a request from the City</p> <p>5 to Golf Manor to come and provide assistance; is</p> <p>6 that right?</p> <p>7 A. Well, there was an all-- no, there's a --</p> <p>8 there's a --</p> <p>9 MR. HARDIN: There's going to be an</p> <p>10 objection on misstatement, but go ahead.</p> <p>11 A. There's a request. It's an all--</p> <p>12 all-county broadcast goes out --</p> <p>13 Q. Okay.</p> <p>14 A. -- for assistance for officers. That goes</p> <p>15 out. I read this as -- as if officers arrived there</p> <p>16 and they have to take action, say to arrest</p> <p>17 somebody, they could be acting with authority of</p> <p>18 our -- of our jurisdiction.</p> <p>19 The direction -- it -- it also provides</p> <p>20 our officers, our commanders with the ability, Golf</p> <p>21 Manor responds, Addyston responds, whoever, "Take a</p> <p>22 traffic post, I want you to do this, this and this,"</p> <p>23 while they're there under the conditions.</p> <p>24 It's a very broad, very broad statement</p>	<p style="text-align: right;">Page 357</p> <p>1 Q. Chief, do you know who drafted this</p> <p>2 document?</p> <p>3 MR. MORGAN: Asked and answered.</p> <p>4 A. No.</p> <p>5 Q. Okay.</p> <p>6 A. I don't know who specifically wrote that.</p> <p>7 Q. Did you have any role in drafting this --</p> <p>8 this document?</p> <p>9 A. No.</p> <p>10 Q. Okay. Prior to today though, you had seen</p> <p>11 it and you were familiar with it?</p> <p>12 A. Oh, yes, sir.</p> <p>13 Q. Okay. And you've had an opportunity to</p> <p>14 read, I think, probably at least three times</p> <p>15 paragraph VI D; is that right?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Would you agree that the reason for</p> <p>18 that paragraph is that when you have a number -- or</p> <p>19 potentially a number of other jurisdictions</p> <p>20 responding to another jurisdiction, that someone has</p> <p>21 to be in control? They all can't be in control?</p> <p>22 Someone has to assume control and responsibility for</p> <p>23 the officers that are responding to -- to direct</p> <p>24 whatever needs to be done, whether it be traffic,</p>